

News Release



U.S. Department of Labor
Office of Public Affairs
Chicago, Ill.
Release Number: 04-1575-CHI

For Immediate Release
Date: August 16, 2004
Contact: Rita Ford
Phone: (202) 693-8671

U.S. Labor Department Sues to Appoint Independent Fiduciary To Abandoned Indiana 401(k) Plan

INDIANAPOLIS, Ind. – The U.S. Department of Labor has sued Ventura Technology International Inc. of Indianapolis, Ind., and its owner for failing to properly remit employee contributions to the corporation's 401(k) plan and segregate those contributions from its general assets. The suit also alleges that the plan participants and beneficiaries were left without a fiduciary to distribute the retirement plan assets.

"Plan fiduciaries have a responsibility to protect plan assets, including making sure there is someone managing the plan," said Joseph Menez, director of the Cincinnati regional office of the department's Employee Benefits Security Administration (EBSA), which investigated the case.

The suit, filed in federal district court in Indianapolis, alleges that Ventura Technology International Inc. and Barbara Baker, the owner and plan trustee, failed to timely remit contributions to the plan from Jan. 31, 2002, to March 18, 2002, remit employee contributions to the plan from March 19, 2002 to June 2002, and commingled the contributions with the company's general assets in violation of the Employee Retirement Income Security Act (ERISA). Baker also abandoned the plan and failed to distribute its assets to participants and beneficiaries and to properly terminate the 401(k).

Plans become orphan plans when they are abandoned by all fiduciaries designated to manage and operate them and their assets, leaving participants and beneficiaries without a way to obtain distributions from their plan account.

The suit seeks to require Baker to restore all losses plus interest to the plan, correct the prohibited transactions, and offset her individual account with the amount of the plan's losses. It also seeks to remove Baker as the trustee, permanently bar her from serving as a fiduciary to any employee benefit plan covered by ERISA, and appoint an independent fiduciary to distribute the plan's assets to participants and beneficiaries and terminate the plan.

Ventura Technology International, Inc., provided information technology consulting services. It ceased doing business in August 2002. The plan provided retirement, death, disability and termination benefits for Ventura employees. There were eight participants and \$26,496 in assets as of April 2004.

In fiscal year 2003, EBSA achieved record monetary results of \$1.4 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can reach the Cincinnati regional office at (859) 578-4680 or through EBSA's toll-free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans.

###

(Chao v. Baker) Civil Action No. 1:04-cv-01292

U.S. Labor Department releases are accessible on the Internet at <http://www.dol.gov/ebsa>. The information in this news release will be made available in alternate format upon request (large print, Braille, audio tape or disc) from the COAST office. Please specify which news release when placing your request at (202) 693-7765 or TTY (202) 693-7755. The U.S. Department of Labor is committed to providing America's employers and employees with easy access to understandable information on how to comply with its laws and regulations. For more information, please visit www.dol.gov/compliance